

## HOUSE BILL NO. 363

INTRODUCED BY EATON, DICKENSON, HINER, BECKER, CAFERRO, GALVIN-HALCRO, GOLIE

A BILL FOR AN ACT ENTITLED: "AN ACT CHANGING THE MENTAL STATE ELEMENT OF AND EXPANDING THE OFFENSE OF ASSAULT WITH A BODILY FLUID; INCLUDING AN ASSAULT ON AN EMERGENCY RESPONDER OR A HEALTH CARE PROVIDER, INCLUDING A HEALTH CARE PROVIDER PERFORMING EMERGENCY SERVICES, WHILE THE HEALTH CARE PROVIDER IS ACTING IN THE COURSE AND SCOPE OF THE HEALTH CARE PROVIDER'S PROFESSION OR OCCUPATION; AND AMENDING SECTION 45-5-214, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 45-5-214, MCA, is amended to read:

**"45-5-214. Assault with bodily fluid.** (1) A person commits the offense of assault with a bodily fluid if the person purposely or knowingly causes one of the person's bodily fluids to make physical contact with:

~~(a)(A) a law enforcement officer, or a staff person of a correctional or detention facility, OR A HEALTH CARE PROVIDER, AS DEFINED IN 50-4-504, INCLUDING A HEALTH CARE PROVIDER PERFORMING EMERGENCY SERVICES, WHILE THE HEALTH CARE PROVIDER IS ACTING IN THE COURSE AND SCOPE OF THE HEALTH CARE PROVIDER'S PROFESSION AND~~  
OCCUPATION:

~~(a)(i)(A)(I)~~ during or after an arrest for a criminal offense;

~~(b)(ii)(B)(II)~~ while the person is incarcerated in or being transported to or from a state prison, or a county, city, or regional jail or detention facility, OR A HEALTH CARE FACILITY; or

~~(c)(iii)(C)(III)~~ if the person is a minor, while the youth is detained in or being transported to or from a county, city, or regional jail or detention facility or a youth detention facility, secure detention facility, regional detention facility, short-term detention center, state youth correctional facility, HEALTH CARE FACILITY, or shelter care facility; or

~~(b) a health care provider, as defined in 50-4-504, including a health care provider performing emergency services, while the health care provider is acting in the course and scope of the health care provider's profession or occupation; OR~~

(B) AN EMERGENCY RESPONDER.

1 (2) A person convicted of the offense of assault with a bodily fluid shall be fined an amount not to  
2 exceed \$1,000 or incarcerated in a county jail or a state prison for a term not to exceed 1 year, or both.

3 (3) The youth court has jurisdiction of any violation of this section by a minor, unless the charge is filed  
4 in district court, in which case the district court has jurisdiction.

5 (4) As used in this section, "~~bodily~~ THE FOLLOWING DEFINITIONS APPLY:

6 (A) "BODILY fluid" means any bodily secretion, including but not limited to feces, urine, blood, and saliva.

7 (B) "EMERGENCY RESPONDER" MEANS A LICENSED MEDICAL SERVICES PROVIDER, LAW ENFORCEMENT OFFICER,  
8 FIREFIGHTER, VOLUNTEER FIREFIGHTER OR OFFICER OF A NONPROFIT VOLUNTEER FIRE COMPANY, EMERGENCY MEDICAL  
9 TECHNICIAN, EMERGENCY NURSE, AMBULANCE OPERATOR, PROVIDER OF CIVIL DEFENSE SERVICES, OR ANY OTHER  
10 PERSON WHO IN GOOD FAITH RENDERS EMERGENCY CARE OR ASSISTANCE AT A CRIME SCENE OR THE SCENE OF AN  
11 EMERGENCY OR ACCIDENT."

12 - END -